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*ADMITTED IN NEW YORK AND NEW JERSEY

July 3, 2008

Via ECF Filing Only

The Honorable Shira A. Scheindlin
United States District Court
500 Pearl Street
New York, New York 10007-1312

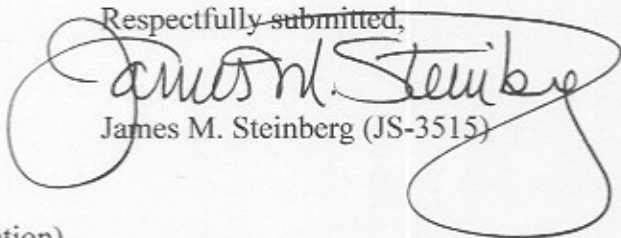
Re: The Annuity, Welfare and Apprenticeship Skill Improvement &
Safety Funds of I.U.O.E. Local 15 v. Metro Foundation Contractors, Inc.
Civil Case No. 08-CIV-2935 (SAS)

Dear Judge Scheindlin:

Our office represents the Plaintiffs in the above-captioned matter who have a pending default judgment motion against Defendant Metro Foundation Contractors, Inc. ("Metro Foundation"). At this time, we are pleased to advise Your Honor that Defendant Metro Foundation has consented to the demanded payroll audit and same is scheduled for July 10, 2008 at 9:00 a.m. (A copy of the audit confirmation letter is annexed hereto for your review.) Since Defendant Metro Foundation has cooperated in scheduling the audit, we respectfully withdraw the pending default judgment motion. In addition, we respectfully request that Your Honor schedule this matter for an initial conference for any date and time after August 10, 2008. This will allow the auditor ample time to prepare his report and for us to forward a copy of same to Defendant Metro Foundation in the event that a fringe benefit deficiency is calculated.

In the event that you have any questions, please contact the undersigned.

Respectfully submitted,


James M. Steinberg (JS-3515)

Enc.

Cc: Mr. Anthony Lazzaro (Metro Foundation)
Mr. Patrick J. Keenan

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MATTHEW G. MCGUIRE*
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*ADMITTED IN NEW YORK AND NEW JERSEY

July 1, 2008

Via Facsimile Only

Mr. Anthony Lazzaro
Metro Foundation Contractors, Inc.
105-11 Crossbay Boulevard
Jamaica, New York 11417

Re: The Annuity, Welfare and Apprenticeship Skill Improvement &
Safety Funds of I.U.O.E. Local 15 v. Metro Foundation Contractors, Inc.
Civil Case No. 08-CIV-2935 (SAS)

Dear Mr. Lazzaro:

As you know, our office represents Plaintiffs The Annuity, Welfare and Apprenticeship Skill Improvement & Safety Funds of the International Union of Operating Engineers Local 15, 15A, 15C & 15D, AFL-CIO in connection with the above-referenced matter. In response to your correspondence dated June 30, 2008, please allow this correspondence to confirm that the correct period to be covered by any audit is August 20, 2007 through June 30, 2008 and not the period of July 1, 2004 through July 31, 2007 as identified in my June 27th correspondence to you. Since Metro Foundation did not sign a collective bargaining agreement with Local 15 until August 20, 2007, the earliest starting date for the audit period is the effective date of this agreement. Further since the Complaint calls for the audit period to cover this effective date through "present", June 30th is the appropriate end date for the period to be audited. Therefore, please be advised that Plaintiffs are willing to withdraw their pending default judgment motion once a date and time for a payroll audit covering the period of August 20, 2007 through June 30, 2008 is confirmed with Metro Foundation.

To facilitate the resolution of this matter, please be advised that the auditor is available at 9:00 a.m. on any of the following dates: July 8th, 9th or 10th to visit the offices of Metro Foundation and review the following documents covering the period of August 20, 2007 through June 30, 2008:

1. Tax Forms 941s;
2. Quarterly Payroll Tax Forms a/k/a NYS-45 Tax Forms;
3. Corporate Payroll Records (including information identifying hours paid and gross wages); and

Mr. Anthony Lazzaro
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4. Cash Disbursements Records.

Therefore, please confirm in writing by duly executing and returning to the undersigned this correspondence by facsimile that the above listed documents will be made available for review by our auditor on any one of the provided dates. Please also be aware that no adjournments will be made to this date and time. In exchange for your prompt confirmation of the audit, my office will immediately advise the court that the pending motion is withdrawn and we will request – as suggested by Mr. Rubenstein – an initial conference date with the court. Finally, please be advised that if we do not receive this confirmation by Wednesday, July 2nd, we will ask that Judge Scheindlin consider the pending motion.

Your immediate cooperation with this matter is appreciated.


Very truly yours,


James M. Steinberg

The undersigned hereby confirms that the payroll records identified above will be made available for review by an auditor (for the period of 8/20/07-6/30/08) on the following date at 9:00 a.m. at the offices of Metro Foundation (please circle one):

July 8th, July 9th or July 10th

Metro Foundation Contractors, Inc.

By: 
Name (print):
Telephone No.:

Cc: Mr. James T. Callahan
Mr. Patrick J. Keenan